

232977

STATE OF SOUTH CAROLINA

(Caption of Case)

Cherokee County Generation Partners, LP, n/k/a
Cherokee County Cogeneration Partners, LLC --
August 26, 1994 Purchased Power Agreement with
Duke Energy Carolinas, LLC.

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET NUMBER: 1994 0094 - 615 - E

(Please type or print)

Submitted by: John M.S. Hoefer

Address: P.O. Box 8416

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SC Bar Number: 2549

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Other:

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other:

INDUSTRY (Check one)

- ☒ Electric
☐ Electric/Gas
☐ Electric/Telecommunications
☐ Electric/Water
☐ Electric/Water/Telecom.
☐ Electric/Water/Sewer
☐ Gas
☐ Railroad
☐ Sewer
☐ Telecommunications
☐ Transportation
☐ Water
☐ Water/Sewer
☐ Administrative Matter
☐ Other:

NATURE OF ACTION (Check all that apply)

- | | | |
|--|--|---|
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> Letter | <input type="checkbox"/> Request |
| <input type="checkbox"/> Agreement | <input type="checkbox"/> Memorandum | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Answer | <input type="checkbox"/> Motion | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Appellate Review | <input type="checkbox"/> Objection | <input type="checkbox"/> Resale Agreement |
| <input type="checkbox"/> Application | <input type="checkbox"/> Petition | <input type="checkbox"/> Resale Amendment |
| <input type="checkbox"/> Brief | <input type="checkbox"/> Petition for Reconsideration | <input type="checkbox"/> Reservation Letter |
| <input type="checkbox"/> Certificate | <input type="checkbox"/> Petition for Rulemaking | <input type="checkbox"/> Response |
| <input type="checkbox"/> Comments | <input type="checkbox"/> Petition for Rule to Show Cause | <input type="checkbox"/> Response to Discovery |
| <input type="checkbox"/> Complaint | <input type="checkbox"/> Petition to Intervene | <input type="checkbox"/> Return to Petition |
| <input type="checkbox"/> Consent Order | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation |
| <input type="checkbox"/> Discovery | <input type="checkbox"/> Prefiled Testimony | <input type="checkbox"/> Subpoena |
| <input type="checkbox"/> Exhibit | <input type="checkbox"/> Promotion | <input type="checkbox"/> Tariff |
| <input type="checkbox"/> Expedited Consideration | <input type="checkbox"/> Proposed Order | <input checked="" type="checkbox"/> Other: Filing PPA |
| <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest | Amendment |
| <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit | |
| <input type="checkbox"/> Late-Filed Exhibit | <input type="checkbox"/> Report | |

Print Form

Reset Form

WILLOUGHBY & HOEFER, P.A.

ATTORNEYS & COUNSELORS AT LAW

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October 20, 2011

*ALSO ADMITTED IN TX

VIA HAND DELIVERY

The Honorable Jocelyn D. Boyd
Chief Clerk / Administrator
Public Service Commission of South Carolina
101 Executive Center Drive (Saluda Building)
Columbia, South Carolina 29210

RE: Cherokee County Generation Partners, LP, n/k/a Cherokee County Generation Partners, LLC – August 26, 1994 Purchased Power Agreement with Duke Energy Carolinas, LLC; Docket No. 94-615-E

Dear Mrs. Boyd:

I represent Cherokee County Generation Partners, LP, n/k/a Cherokee County Generation Partners, LLC (“Cherokee”). Enclosed for filing on behalf of Cherokee and Duke Energy Carolinas, LLC (“Duke”) in the above-referenced docket please find ten (10) copies of Amendment No. 4 to the Purchased Power Agreement (“PPA”) referenced above.

I would appreciate it very much if you would accept these documents for filing and return the enclosed copy of this transmittal, bearing your file-stamp, via our courier.

This filing is made pursuant to Order No. 95-26-E in the above-referenced docket, which requires that Cherokee and Duke file amendments to the PPA within ten (10) days of execution. In reviewing its records in anticipation of a transaction involving an upstream entity that indirectly holds interests in Cherokee, it was discovered that Amendment No. 4 to the PPA had not been timely filed. The omission was not intentional and the parties sincerely regret any inconvenience that it may have caused the Commission or its Staff.

I am authorized by counsel for Duke to state that it fully concurs in this filing. By copy of this letter, I am making Duke, and the Office of Regulatory Staff, aware of same.

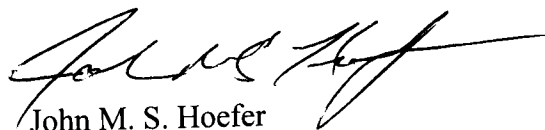
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OCT 20 2011

The Honorable Jocelyn D. Boyd
October 20, 2011
Page 2

If you have any questions, or require additional information, please do not hesitate to contact me. With best regards, I am

Sincerely,

WILLOUGHBY & HOEFER, P.A.



John M. S. Hoefer

JMSH/ccm
Enclosures

cc: Lisa G. Quarrie, Esquire
NextEra Energy

Timika Shafeek-Horton, Esquire
Duke Energy Corporation

Shannon Bowyer Hudson, Esquire
Office of Regulatory Staff

AMENDMENT NO. 4
TO
PURCHASED POWER AGREEMENT
BETWEEN
DUKE ENERGY CAROLINAS, LLC
AND
CHEROKEE COUNTY COGENERATION PARTNERS, LLC

DATED JANUARY 20, 2011

AMENDMENT NO. 4

This Amendment No. 4 is made and entered into as of this 20th day of January, 2011, by and between Cherokee County Cogeneration Partners, LLC (f/k/a Cherokee County Cogeneration Partners, LP) ("Cherokee") and Duke Energy Carolinas, LLC (f/k/a Duke Power Company) ("Duke").

WHEREAS, Duke and Cherokee are parties to the Purchased Power Agreement dated as of August 26, 1994 (as amended pursuant to Amendment No. 1, Amendment No. 2, and Amendment No. 3, the "Purchased Power Agreement"); and

WHEREAS, Article 6.2 of the Purchased Power Agreement provides that Cherokee shall make certain monthly payments to Duke for Interconnection Facilities Charges (as such term is defined in the Purchased Power Agreement) for as long as service is provided under the Purchased Power Agreement; and

WHEREAS, Duke and Cherokee have entered into a Large Generator Interconnection Agreement effective as of January 1, 2011 (the "LGIA") which sets forth the terms, conditions and obligations of the parties with respect to the interconnection of Cherokee's generating facility with the transmission system operated by Duke; and

WHEREAS, a voltage schedule produced in connection with the LGIA and made available for both Cherokee and Duke shall denote voltages and the power factor range for the power supplied by Cherokee's generating facility to Duke; and

WHEREAS, Duke and Cherokee wish to delete certain provisions in the Purchased Power Agreement that are related to the Interconnection Facilities Charges as the LGIA shall govern the terms, conditions and obligations relating to such charges.

NOW, THEREFORE, in consideration of the promises contained herein, the sufficiency of which is acknowledged, Duke and Cherokee agree to amend the Purchased Power Agreement as follows:

1. Article 4.6 shall be deleted in its entirety.
2. Article 6.2(b) of the Purchased Power Agreement shall be deleted in its entirety.
3. Article 6.3 of the Purchased Power Agreement shall be deleted in its entirety.

4. The first sentence in Article 6.4 of the Purchased Power Agreement shall be amended by deleting the words “The Interconnection Facilities Charge may also be adjusted, and” so that such sentence reads as follows:

“Additional up-front payments by Cherokee may be required, at the sole option of Duke from time to time in the event that (a) actions taken by the Parties pursuant to the Electric Service Agreement between the Parties covering Duke’s delivery of power to Cherokee’s adjacent manufacturing facility (including, but not limited to, termination) or (b) amendments made by the Parties to said Electric Service Agreement, impact upon or result in changes to the furnishing, installation, installed costs or maintenance of the Interconnection Facilities.”

5. Article 6.5 of the Purchased Power Agreement shall be deleted in its entirety.

6. The first sentence in Article 7.1 shall be amended by deleting the words “and the Interconnection Facilities Charge” so that such sentence reads as follows:

“Duke shall submit to Cherokee as promptly as possible, but within thirty (30) days following each regularly scheduled monthly meter reading, a statement showing Cherokee’s On-Peak and Off-Peak energy deliveries, On-Peak and Off-Peak Excess Energy deliveries, and the associated capacity credits and energy credits.”

7. The third sentence in Article 7.1 shall be amended by deleting the words “, net of the Interconnection Facilities Charge,” so that such sentence reads as follows:

“Actual payment to Cherokee shall be transmitted to Cherokee simultaneously with the submittal of said statements.”

8. Article 7.5 of the Purchased Power Agreement shall be amended by deleting the words “unpaid Interconnection Facilities Charges or” so that such article reads as follows:

“Duke reserves the right to set off against any amounts due from Duke to Cherokee, any amounts which Duke asserts in good faith are due from Cherokee to Duke, including, but not limited to, past due balances on other accounts Cherokee has with Duke for other services.”

9. Article 11.1(a) of the Purchased Power Agreement shall be amended by deleting the words “Interconnection Facilities Charges or” so that such article reads as follows:

“Any unpaid charges due Duke under this Agreement including, but not limited to, any up-front payments provided for in Article 6; and”

10. Appendix D shall be deleted in its entirety.

11. All other terms and conditions of the Purchased Power Agreement are and shall remain in full force and effect.

12. This Amendment No. 4 shall be effective as of the date first set forth above.

[SIGNATURES ON FOLLOWING PAGE]

In witness thereof, the parties have caused this Amendment No. 4 to be executed as of the first date set forth above.

CHEROKEE COUNTY COGENERATION
PARTNERS, LLC

By: Matthew S. Slaton

Name: Matthew S. Slaton

Title: VP

RP

DUKE ENERGY CAROLINAS, LLC

By: Mark A. Svrcek

Name: Mark A. Svrcek
VP-Wholesale Business & Renewables

Title: _____

GSR
AW